

ESTTA Tracking number: **ESTTA682428**

Filing date: **07/08/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	NIHC INC
Granted to Date of previous extension	07/08/2015
Address	701 SOUTHWEST BROADWAY, 4TH FLOOR PORTLAND, OR 97205-3398 UNITED STATES
Attorney information	Lorraine Linford Seed IP Law Group LLP 701 Fifth Avenue, Suite 5400 Seattle, WA 98104 UNITED STATES lorraineL.docketing@seedip.com, litcal@seedip.com Phone:206-622-4900

Applicant Information

Application No	86412472	Publication date	03/10/2015
Opposition Filing Date	07/08/2015	Opposition Period Ends	07/08/2015
Applicant	Just For Does 216 Commercial LaCygne, KS 66040 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Clothing, namely, t-shirts, shirts, tank tops, halter tops, tops, sweaters, sweatshirts, hooded sweatshirts, coats, jerseys, jackets, bottoms, pants, trousers, jeans, shorts, sweatpants, pajamas, socks, dresses, skirts, blouses, underwear, swimwear, headwear, footwear, sleepwear, panties, boxers, jackets, hats, vests, leggings, gloves, beanies, belts


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3866811	Application Date	02/23/2010
Registration Date	10/26/2010	Foreign Priority Date	NONE
Word Mark	RACK		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 retail store services and mail order catalog services featuring apparel, footwear, fashion accessories and gifts

U.S. Registration No.	3962979	Application Date	02/23/2010
Registration Date	05/17/2011	Foreign Priority Date	NONE
Word Mark	THE RACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 retail store services, online retail store services and mail order catalog services featuring apparel, footwear, fashion accessories and gifts		


U.S. Registration No.	1409938	Application Date	01/31/1986
Registration Date	09/16/1986	Foreign Priority Date	NONE
Word Mark	NORDSTROM RACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1972/10/00 First Use In Commerce: 1972/10/00 RETAIL MEN'S AND WOMEN'S CLOTHING STORESERVICES		

U.S. Registration No.	3893991	Application Date	05/27/2010
-----------------------	---------	------------------	------------

Registration Date	12/21/2010	Foreign Priority Date	NONE
Word Mark	NORDSTROM RACK		
Design Mark			
Description of Mark	The mark consists of the word "NORDSTROM" above the word "RACK".		
Goods/Services	Class 035. First use: First Use: 2008/09/25 First Use In Commerce: 2008/09/25 Retail store services featuring apparel, footwear, fashion accessories and gifts		

U.S. Registration No.	2980055	Application Date	10/16/2002
Registration Date	07/26/2005	Foreign Priority Date	NONE
Word Mark	NORDSTROM RACK NR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2001/04/00 First Use In Commerce: 2001/04/00 Retail store [and online retail] services, all in the field of apparel, footwear, small leather goods, eyewear, jewelry, and bath, body and personal care products; retail [and online retail] giftshop services		

U.S. Registration No.	4214297	Application Date	06/26/2009
Registration Date	09/25/2012	Foreign Priority Date	NONE
Word Mark	DENIMRACK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2009/06/19 First Use In Commerce: 2009/06/19 On-line retail store services featuringdenim clothing; Retail apparel stores; Retail store services featuring denim clothing and accessories

Attachments	77942725#TMSN.png(bytes) 77942736#TMSN.png(bytes) 85049432#TMSN.png(bytes) 78976100#TMSN.png(bytes) 77769311#TMSN.png(bytes) Notice of Opposition - Just For Does.pdf(126705 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lorraine Linford/
Name	Lorraine Linford
Date	07/08/2015

**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

NIHC, Inc.,)	
)	Opposition No. _____
Opposer,)	
)	Serial No. 86/412472
v.)	
)	
Just For Does,)	
)	Attorney Docket No. 690097.80177
Applicant.)	
_____)	

Notice of Opposition

NIHC, Inc. ("NIHC"), having an address at 701 Southwest Broadway, Fourth Floor, Portland, Oregon 97205 believes it will be damaged by registration of the mark SAVE A RACK as shown in U.S. Trademark Application Serial No. 86/412472 ("the '472 Application") which was filed October 2, 2014 in class 25 and published for opposition on March 10, 2014. Opposer requested and received extensions of time to July 8, 2015.

The grounds for this Opposition are as follows:

1. Opposer, through its commonly owned and controlled licensee Nordstrom, Inc. ("Nordstrom"), operates retail department stores and online retail stores and is engaged in the marketing and sale of a wide variety of apparel, gifts and accessories in interstate commerce, including women's, men's and children's clothing.

2. Since at least as early as 1990, Nordstrom adopted and has used the marks RACK, THE RACK and variants thereof ("RACK Marks") in interstate commerce in the United States in connection with retail store services featuring a wide range of apparel, as well as gifts, accessories and other goods.

3. Nordstrom applied for and received U.S. Trademark Registration Nos. 3,866,811, 3,962,979, 1,409,938, 3,893,991, 2,980,055 and 4,214,297 and for the marks RACK, THE RACK, NORDSTROM RACK, NORDSTROM RACK (stylized), NORDSTROM RACK NR

and Design and DENIMRACK, and all of which predate the present application. These registrations have been assigned by Nordstrom to NIHC, which has exclusively licensed the marks shown in the registrations to Nordstrom.

4. Since commencing use of its RACK Marks as described above, Opposer and its licensee Nordstrom have generated substantial revenue from its retail services and the sale of goods in connection with the marks in the United States. Additionally, Opposer and its licensee Nordstrom have expended substantial sums of money, time and effort in maintaining, advertising, promoting and popularizing its RACK Marks in the United States.

5. As a result of such use of the RACK Marks, and the advertising and promotion of its RACK retail store services and related products sold in connection with those services, Opposer's RACK Marks have become well known in the United States and are recognized as identifying the high-quality services and goods of Opposer and its licensee Nordstrom. Thus, its RACK Marks and the associated goodwill are valuable assets of Opposer.

6. Applicant has applied on an intent-to-use basis to register the SAVE A RACK mark shown in the '472 Application in International Class 25 for the following goods and services, "Clothing, namely, t-shirts, shirts, tank tops, halter tops, tops, sweaters, sweatshirts, hooded sweatshirts, coats, jerseys, jackets, bottoms, pants, trousers, jeans, shorts, sweatpants, pajamas, socks, dresses, skirts, blouses, underwear, swimwear, headwear, footwear, sleepwear, panties, boxers, jackets, hats, vests, leggings, gloves, beanies, belts".

7. Applicant's mark SAVE A RACK for the goods described in the '472 Application is confusingly and deceptively similar to Opposer's RACK Marks, such that the trade and purchasing public will be confused by and deceived into believing that Applicant's goods originate with Opposer and its licensee Nordstrom, or are otherwise authorized by, sponsored by, licensed by, affiliated with, or associated with Opposer.

8. Upon information and belief, Applicant has not made use of SAVE A RACK in commerce in or into the United States as a trademark in connection with the goods listed in the

'472 Application or any other goods or services prior to the October 2, 2014 filing date of the
'472 Application.

9. By reason of the foregoing, Opposer would be greatly damaged by the registration of the mark SAVE A RACK to Applicant.

WHEREFORE, Opposer prays that this Opposition be sustained, Applicant's application be denied and the mark refused registration.

Correspondence Address

Please direct all communications to:

Lorraine Linford
LorraineL@SeedIP.com
LitCal@SeedIP.com
SEED IP Law Group PLLC
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104

DATED this 8th day of July, 2015.

Respectfully submitted,
SEED IP Law Group PLLC

/Lorraine Linford/
Lorraine Linford
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104
Telephone (206) 622-4900
Facsimile: (206) 682-6031

Attorneys for Opposer NIHC, Inc.

Certificate of Service

I hereby certify that on this 8th day of July, 2015, the foregoing **Notice of Opposition** was served upon Applicant and Applicant's counsel by United States first-class mail, postage-prepaid, addressed as follows:

Just For Does
216 Commercial
LaCygne, KS 66040

Raj Abhyanker
Raj Abhyanker, P.C.
1580 W. El Camino Rea, #8
Mountain View, CA 94040-2462

/Anne Calico/
Anne Calico